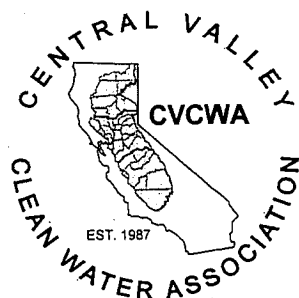


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CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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April 29, 2013

Via Electronic Mail Only

Matthew Scroggins
Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, California 93706
mscroggins@waterboards.ca.gov

**Re: Central Valley Clean Water Association's Comments on the Tentative Waste
Discharge Requirements for the Cutler-Orosi Joint Powers Wastewater Authority
Wastewater Treatment Facility**

Dear Mr. Scroggins:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to submit comments on the Tentative Order for the Cutler-Orosi Joint Powers Wastewater Authority Wastewater Treatment Facility (Tentative Order). CVCWA is a non-profit organization representing more than 50 publicly owned treatment works (POTWs) throughout the Central Valley in regulatory matters affecting surface water discharge, land application, and water reuse. We carefully review permits for POTWs being proposed for adoption with a perspective to balance environmental and economic interests consistent with applicable law.

Based on our review of the Tentative Order, CVCWA has concerns with certain proposed provisions. Specifically, CVCWA is concerned with Discharge Prohibition III.F, the maximum daily final effluent limits for boron and chloride (Provision IV.A.1.a.), the recycled water specifications (Provision IV.C.1.a.) for boron and chloride, and the "other" catch-all receiving water limitation. CVCWA's comments on these issues are detailed here.

I. Discharge Prohibition III.F

The Tentative Order includes a Discharge Prohibition that states, "[d]ischarge of waste classified as 'hazardous' as defined in Title 23, California Code of Regulations (CCR), Section 2521(a), et seq., or 'designated', as defined in Section 13173 of the Water Code is prohibited." (Tentative Order, at p. 12.) The definition of designated waste in the Water Code includes "[n]onhazardous waste that consists of, or contains pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the state as contained in the appropriate state water quality control plan." (Wat. Code, § 13173(b).) In other words, the Tentative Order prohibits the discharge of waste at the end of pipe that would exceed applicable water quality objectives. Such a prohibition is inappropriate as it nullifies the reasonable potential analysis process that is otherwise applied, and establishes a more stringent permit requirement than is otherwise established by the receiving water limitations.

First, the State Water Resources Control Board ("State Board") and the Central Valley Regional Water Quality Control Board ("Regional Board") have well-established processes for determining reasonable potential that to comply with federal regulatory requirements. Federal regulations require that NPDES permits include water quality based effluent limits when the Regional Board determines that the discharge will cause, have the reasonable potential to cause, or contribute to a violation of a water quality objective. (40 CFR, § 122.44(d)(1)(i).) Accordingly, the state adopted procedures for the 126 priority pollutants identified in the California Toxics Rule (i.e., *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California*), and the Regional Board may use these procedures for both priority and non-priority pollutants. Through the established reasonable potential analysis process and adoption of water quality based effluent limitations, constant effluent monitoring, and regular permit renewals every five years (or thereabouts), the Regional Board is able to ensure that the discharge of treated effluent is not causing water quality standards to be exceeded in the receiving water.

Second, in addition to the establishment of water quality based effluent limitations, the Tentative Order includes receiving water limitations that are based on water quality objectives. (Tentative Order, at p. 17-19.) The receiving water limits state that the discharge cannot cause the exceedance of the specified water quality objectives in Sand Creek. These receiving water limitations ensure that the Sand Creek is protected and that water quality objectives are not caused to be exceeded by the discharge.

Considering the inclusion of water quality based effluent limitations and the receiving water limitations, it is inappropriate to include a broad discharge prohibition that would apply at the end of the pipe. Further, by including this provision, the Cutler-Orosi Joint Powers Wastewater Authority could be held liable for the violation of several repetitive permit provisions even though the discharge may be limited to a single pollutant, and in a limited circumstance. Creating

additional liability for publically owned treatment works ("POTWs") is not good public policy. Accordingly, CVCWA recommends that Discharge Prohibition III.F. be revised to eliminate the reference to designated waste.

II. Maximum Daily Final Effluent Limitations for Boron and Chloride

For discharges to Sand Creek, the Tentative Order includes final effluent limits for chloride and boron that are 175 mg/L and 1.0 mg/L respectively. (Tentative Order, p. 13.) According to the Fact Sheet portion of the Tentative Order, these limits are being adopted as maximum daily limits as required by the *Water Quality Control Plan for the Tulare Lake Basin* ("Basin Plan"). CVCWA disagrees with statements in the Tentative Order that claim that the Basin Plan requires limits for chloride and boron to be expressed as maximum daily limits.

The language of the Basin Plan states, "Discharges shall not exceed an EC of 1,000 micromhos per centimeter, a chloride content of 175 mg/L, or a boron content of 1.0 mg/L." (Basin Plan, at p. IV-10.) Nothing here indicates that such limits are required to be expressed as a maximum daily limit. Further, considering that the constituents in question are essentially forms of salinity, expressing such limitations as daily maximums is inappropriate. Impacts from salinity are general considered to be chronic, or long-term impacts, not acute impacts. Because salinity impacts are not acute, it is improper to include these limitations as daily maximum limits.

While this discharger is likely able to comply with these limitations as daily maximums, CVCWA is concerned with the precedent that this establishes for other permittees. Accordingly, CVCWA recommends that these limitations be revised to be expressed as long-term averages. Furthermore, CVCWA recommends that these specific effluent limitations as contained in the Basin Plan be reviewed and considered as part of the CV-SALTS process that is underway.

III. Boron and Chloride Recycled Water Specifications for Chloride and Boron

Similar to the final effluent limitations for discharges to Sand Creek, the Tentative Order also includes recycled water specifications for discharges to cropland for chloride and boron. These specifications are being set at 175 mg/L for chloride and 1.0 mg/L for boron, and the limits are expressed as maximum daily provisions (Provision IV.C.1.a.). (Tentative Order, p. 14.) Like with the comments provided above, it is inappropriate to set these limits as daily maximums and the language of the Basin Plan does not require that they be established as such. The Basin Plan states, "[d]ischarges to areas that may recharge to good quality ground waters shall not exceed an EC of 1,000 micromhos per centimeter, a chloride content of 175 mg/L, or a boron content of 1.0 mg/L." (Basin Plan, at p. IV-11.) Assuming that the discharges do recharge to good quality ground waters (which is not addressed or indicated in the Tentative Order), the discharges must comply with the additional effluent limits from the Basin Plan. However, such discharges do not need to be expressed as daily maximums, and as discussed above, such a requirement is inconsistent with the nature of salinity impacts, which would not be acute impacts to groundwater. Accordingly, CVCWA

recommends that the boron and chloride limits contained in the Tentative Order be revised and be reflected as long term averages. Further, CVCWA recommends that these effluent limitations also be included in CV-SALTs discussions.

IV. "Other" Receiving Water Limitation

The Tentative Order includes an "other" receiving water limitation that is inconsistent with the Basin Plan. The receiving limitation titled "other" states that "[t]he discharge shall not cause the following in Sand Creek: . . . [v]iolations of any applicable water quality standard for receiving waters adopted by the Central Valley Water Board or the State Water Board pursuant to the CWA and regulations adopted thereunder." (Tentative Order, at p. 19.) There is no "other" catch-all water quality objective contained in the Basin Plan.

Further, and much like the discharge prohibition above, this provision duplicates and creates additional liability for permit provisions that are otherwise addressed through the adoption of water quality based effluent limitations, and the other 18 receiving water limitations. Accordingly, the "other" receiving water limitation is inappropriate and needs to be deleted from the Tentative Order.

V. Conclusion

Based on our comments above, CVCWA recommends the following changes to the Tentative Order: (1) delete the 'designated' portion of discharge prohibition III.F; (2) revise the final effluent limits and recycled water specifications for chloride and boron to be expressed and applied as long-term averages rather than as daily maximum limits; (3) recommend to CV-SALTS that the consider these effluent limitations when evaluating the Basin Plan; and, (4) deleted the "other" receiving limitation, which is Provision V.A.19.

Thank you for considering these comments. Please contact me at (530) 268-1338 or eofficer@cvcwa.org if I can be of assistance.

Sincerely,



Debbie Webster, Executive Officer

Cc: *Via electronic mail:*

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